

ASSEMBLY BILL

No. 1959

Introduced by Assembly Member Logue

February 17, 2010

An act to amend, repeal, and add Section 18663 of the Revenue and Taxation Code, and to amend, repeal, and add Section 13020 of the Unemployment Insurance Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1959, as introduced, Logue. Personal income taxes: withholding.

Existing law requires the Franchise Tax Board to prepare wage withholding tables to be used by employers for purposes of withholding taxes on wages paid. Existing law requires, for wages paid on or after November 1, 2009, the wage withholding tables to produce a sum that is equal to 10% more than the sum specified for purposes of the withholding tables. Existing law allows, in lieu of the withholding tables, withholding at a rate of 6.6% with respect to supplemental wages and at a rate of 10.23% with respect to stock options and bonus payments paid on or after November 1, 2009.

This bill would limit the requirement for the additional 10% wage withholding to wages paid on and after November 1, 2009, and before January 1, 2011. This bill would limit the withholding at a rate of 6.6% with respect to supplemental wages and at a rate of 10.23% with respect to stock options and bonus payments to payments made on or after November 1, 2009, and before January 1, 2011, and would, thereafter, reduce the rates to 6% and 9.3%, respectively.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 18663 of the Revenue and Taxation Code is amended to read:

18663. (a) (1) The Franchise Tax Board shall annually (or more often if necessary) prepare and make available to the Employment Development Department, wage withholding tables that shall be used by every employer making payment of any wages to a resident employee for services performed either within or without this state; or to a nonresident employee for services performed in this state, to deduct and withhold from those wages for each payroll period, a tax computed in a manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054, a sum that is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) resulting from the inclusion in the gross income of the employee the wages which were subject to withholding.

(2) For wages paid on or after November 1, 2009, *and before January 1, 2011*, wage withholding tables prepared by the Franchise Tax Board pursuant to this subdivision shall produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054, a sum that will significantly prevent underwithholding by using an amount equal to 10 percent more than the sum described in paragraph (1).

(b) (1) (A) For supplemental wages paid on or after January 1, 1992, the rate of withholding that may be applied to supplemental wages in lieu of the wage withholding tables specified in subdivision (a) shall be 6 percent.

(B) For supplemental wages paid on or after November 1, 2009, *and before January 1, 2011*, the rate of withholding shall be 6.6 percent.

(2) For purposes of this subdivision, “supplemental wages” includes, but is not limited to, bonus payments, overtime payments, commissions, sales awards, back pay including retroactive wage increases, and reimbursements for nondeductible moving expenses that are paid for the same or a different period, or without regard to a particular period.

(c) (1) For stock options and bonus payments that constitute wages paid on or after January 1, 2002, the rate of withholding

1 that may be applied to those stock options and bonus payments in
2 lieu of the wage withholding tables specified in subdivision (a)
3 shall, notwithstanding subdivision (b), be 9.3 percent.

4 (2) For stock options and bonus payments that constitute wages
5 paid on or after November 1, 2009, *and before January 1, 2011*,
6 the rate of withholding shall be 10.23 percent.

7 *(d) This section shall remain in effect only until January 1, 2011,*
8 *and as of that date is repealed.*

9 SEC. 2. Section 18663 is added to the Revenue and Taxation
10 Code, to read:

11 18663. (a) The Franchise Tax Board shall annually (or more
12 often if necessary) prepare and make available to the Employment
13 Development Department, wage withholding tables that shall be
14 used by every employer making payment of any wages to a resident
15 employee for services performed either within or without this state;
16 or to a nonresident employee for services performed in this state,
17 to deduct and withhold from those wages for each payroll period,
18 a tax computed in a manner as to produce, so far as practicable,
19 with due regard to the credits for personal exemptions allowable
20 under Section 17054, a sum that is substantially equivalent to the
21 amount of tax reasonably estimated to be due under Part 10
22 (commencing with Section 17001) resulting from the inclusion in
23 the gross income of the employee the wages which were subject
24 to withholding.

25 (b) (1) For supplemental wages paid on or after January 1,
26 2011, the rate of withholding that may be applied to supplemental
27 wages in lieu of the wage withholding tables specified in
28 subdivision (a) shall be 6 percent.

29 (2) For purposes of this subdivision, "supplemental wages"
30 includes, but is not limited to, bonus payments, overtime payments,
31 commissions, sales awards, back pay including retroactive wage
32 increases, and reimbursements for nondeductible moving expenses
33 that are paid for the same or a different period, or without regard
34 to a particular period.

35 (c) For stock options and bonus payments that constitute wages
36 paid on or after January 1, 2011, the rate of withholding that may
37 be applied to those stock options and bonus payments in lieu of
38 the wage withholding tables specified in subdivision (a) shall,
39 notwithstanding subdivision (b), be 9.3 percent.

40 (d) This section shall become operative on January 1, 2011.

SEC. 3. Section 13020 of the Unemployment Insurance Code is amended to read:

13020. (a) (1) Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, shall deduct and withhold from those wages, except as provided in subdivision (c) and Sections 13025 and 13026, for each payroll period, a tax computed in that manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code resulting from the inclusion in the gross income of the employee of the wages which were subject to withholding. The method of determining the amount to be withheld shall be prescribed by the Franchise Tax Board pursuant to Section 18663 of the Revenue and Taxation Code.

(2) For each payroll period ending on or after November 1, 2009, *and before January 1, 2011*, the sum shall comport with the changes made to Section 18663 of the Revenue and Taxation Code, ~~by the act adding this paragraph~~ *Chapter 15 of the Fourth Extraordinary Session of the Statutes of 2009.*

(b) The department upon request may permit the use of accounting machines to calculate the proper amount to be deducted and withheld from wages, if the calculation produces an amount substantially equivalent to the amount of tax required to be withheld under subdivision (a).

(c) Withholding shall not be required by this section with respect to wages, salaries, fees, or other compensation paid by a corporation for services performed in California for that corporation to a nonresident corporate director for director services, including attendance at a board of directors' meeting.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 4. Section 13020 is added to the Unemployment Insurance Code, to read:

13020. (a) Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state,

1 shall deduct and withhold from those wages, except as provided
2 in subdivision (c) and Sections 13025 and 13026, for each payroll
3 period, a tax computed in that manner as to produce, so far as
4 practicable, with due regard to the credits for personal exemptions
5 allowable under Section 17054 of the Revenue and Taxation Code,
6 a sum which is substantially equivalent to the amount of tax
7 reasonably estimated to be due under Part 10 (commencing with
8 Section 17001) of Division 2 of the Revenue and Taxation Code
9 resulting from the inclusion in the gross income of the employee
10 of the wages which were subject to withholding. The method of
11 determining the amount to be withheld shall be prescribed by the
12 Franchise Tax Board pursuant to Section 18663 of the Revenue
13 and Taxation Code.

14 (b) The department upon request may permit the use of
15 accounting machines to calculate the proper amount to be deducted
16 and withheld from wages, if the calculation produces an amount
17 substantially equivalent to the amount of tax required to be
18 withheld under subdivision (a).

19 (c) Withholding shall not be required by this section with respect
20 to wages, salaries, fees, or other compensation paid by a
21 corporation for services performed in California for that corporation
22 to a nonresident corporate director for director services, including
23 attendance at a board of directors' meeting.

24 (d) This section shall become operative on January 1, 2011.